

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

IN RE: VEHICLE CARRIER SERVICES
ANTITRUST LITIGATION

Master Docket No.:13-3306(ES)(JAD)
(MDL No. 2471)

This Document Relates To All Actions

**PLAINTIFFS' PROPOSED STIPULATION AND ORDER REGARDING NON-
DISCOVERABILITY
OF CERTAIN EXPERT MATERIALS AND COMMUNICATIONS**

To manage expert discovery efficiently, the parties hereby stipulate and agree that the following provisions will apply to any Direct Purchaser, Automobile Dealer or End-Payor Action encompassed within Master Docket No. 13-3306 (individually, an “Action” and, collectively, the “Actions”):

1. “Expert witness” or “expert witnesses” means any witness required to provide a report under Fed. R. Civ. P. 26(a)(2)(B).

2. At the times provided by the Court or by subsequent stipulation of the parties as approved by the Court for the service of written expert reports or the conduct of expert depositions, the parties shall make all disclosures required by Fed. R. Civ. P. 26(a)(2)(B), as modified or limited by this Stipulation and Order, and depositions of experts under Fed. R. Civ. P. 26(b)(4) shall occur.

3. The following categories of documents or electronically stored information need not be disclosed by any party or expert witness and are outside the scope of permissible discovery (including deposition questions):

a. intermediate drafts of reports, studies, or work papers (including intermediate calculations, computations or data runs) and other intermediate draft materials

prepared by, for, or at the direction of an expert witness or a non-testifying expert or consultant unless the testifying expert witness has relied upon those drafts in connection with the expert witness's opinions in this matter;

b. notes prepared by expert witnesses, or employees working at the direction of those expert witnesses, in connection with the Actions, except to the extent the notes identify facts or data that the expert witness considered in forming the opinions to be expressed or identify assumptions that the expert witness relied on in forming the opinions to be expressed by such expert witness in the Actions; and

c. any oral, written, or other communications between or among expert witnesses, non-testifying experts or consultants, their staffs, assistants, colleagues, or associates, supporting firms, or one or more attorneys (or their staff) for the party or parties offering the testimony of the expert witness, except to the extent that the communications identify facts or data that the expert witness considered in forming the opinions to be expressed or identify assumptions that the expert witness relied on in forming the opinions to be expressed by such expert witness in the Actions.

2. Within three business days of any party serving expert witness reports in the Actions, the party or parties proffering the expert witness shall produce in the format prescribed in any stipulation or order regarding production of electronically stored information entered in the Actions: documents containing the facts, data or assumptions that the expert witness relied on in forming the opinions to be expressed by such expert witness, including but not limited to any empirical investigations, statistical models, multiple regression analyses, and statistical correlations performed by or at the direction of the expert witness to the extent that such expert witness. Such documents shall include, but are not limited to spreadsheets, computerized

regression analysis, or other underlying reports and schedules sufficient to reconstruct the expert witness's work, calculations, or analyses ("Expert Data").

3. Where documents have previously been produced as part of discovery, identification by control number is sufficient. As to other documents relied upon by the expert witness, documents that are identified in the expert witness's report and are publicly available need not be produced absent specific request.

SO ORDERED this ____ day of _____, 2014

Honorable Esther Salas, U.S. D.J.

Respectfully submitted,

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